

Stoddard, Jamey

From: Stoddard, Jamey
Sent: Thursday, May 21, 2015 2:51 PM
To: 'Newman, Sheila M POA'; Heather Kendall-Miller; Reimer, Gary
Cc: Socheata Lor; Betsy McCracken; Ellen Lance (ellen_lance@fws.gov); Allison MacEwan (allison@ridolfi.com); Rob Rosenfeld (robrosey@gmail.com); Shay Elbaum (Law Clerk 12 AK); Al goozmer (al777atthebeach@gmail.com); Donita Slawson (deniigi51@yahoo.com); Shina A Duvall (DNR) (shina.duvall@alaska.gov) (shina.duvall@alaska.gov); judy.bittner@alaska.gov; 'jeddins@achp.gov'; Doug Limpinsel - NOAA Federal (doug.limpinsel@noaa.gov); candace.nachman@noaa.gov; NVT-Admin@tyonek.net; Kyle.Moselle@alaska.gov; russell.kirkham@alaska.gov; Berkner, Jason R POA; Dan Graham; Joe Lucas; renee.evans@alaska.gov; ruth.hamilton.heese@alaska.gov; kate.harper@alaska.gov
Subject: RE: upcoming meeting on Friday the 22nd (UNCLASSIFIED)
Importance: High

Sheila:

Here is a list of some of the outstanding items we have identified and hope will be discussed/clarified at the cooperating agency meeting tomorrow. Thanks.

- Timing (LEDPA determination/404(b)(1) analysis/preferred alternative selection/post mining land use determination/significant degradation potential, etc.)
 - Question: What is the general timing and process for making these determinations (draft SEIS, final SEIS, ROD, no plan to identify in NEPA documents?)
- Corps reaction to mitigation proposals?
 - Question: Have they been reviewed, will they? What is Corps response? Will agency comments receive response? Have agency comments been shared with PacRim?
- Timing of impact accounting and credit generation and release ["measure mine impacts...as the mining advances."/"logical...[to]...consider the reclamation that occurs as part of mitigation for future mine advances."]
 - Question: What is Corps position on proposal to use ASMCRA reclamation as 404 compensatory mitigation?
 - Question: What is Corps position on proposal to account impacts/functional debits sequentially as the mine disturbance footprint advances?
- ASMCRA and 404
 - Question: How will ASMCRA reclamation plan be coordinated with final compensatory mitigation plan, particularly performance standards?
 - Question: Will ASMCRA bonding provisions be used as financial assurance mechanism for 404 compensatory mitigation? If so, how will performance standards and timing of bond release be coordinated? [404=ecologically meaningful standards while ASMCRA=non-ecologically meaningful standards].
- The wetland functional assessment is one of the primary tools to assess direct effects to wetlands. Our understanding is that the assessment is still in a draft form. Will the assessment be "finalized," and if so, will there be changes from the current version? Heidi Firstencel raised questions about the assessment last fall, making us wonder whether the District envisions changes to the document.

- There has been no explicit assessment of the stream effects, or quantification of the stream network in terms of characteristics such as stream order, Rosgen class, habitat type, etc. The identification of anadromy within the stream network appears incomplete. We regard the treatment of stream segments as vegetated ponds in the PJD report as problematic and misleading.
- Secondary effects to wetlands and streams include hydrologic changes from aquifer drawdown and the discharge of water from aquifer drawdown and surface water management. Aside from the groundwater modeling document, we are not aware that the zone of influence or the specific effects of the aquifer drawdown have been quantified or formally presented for review or discussion. Nor has the effect of the water discharges been analyzed.
- Everyone understands that the mine footprint will be reclaimed, but the specifics of the proposed reclamation are unclear. It is also unclear how the reclamation fits into the 404 context. The applicant is proposing to restore aquatic resource function at the mine site through their reclamation activities. If restoration is practicable, it would be required as minimization, not compensation as proposed by the applicant. The applicant clearly considers it practicable to restore aquatic resource function, but they are not proposing to re-create the aquatic resources currently on the site. This leaves the question of exactly what is practicable, e.g., reconstructing the stream network versus re-establishing the peatlands, unresolved.
- The specific aquatic resources that will be restored post-mining determines which direct effects are permanent versus temporal. The timing of the direct effects from the mine sequencing affects the duration of specific temporal effects. How temporal effects will be quantified and offset remains unclear.
- The approach to compensating for the unavoidable loss of aquatic resource area and function remains unclear. Discussion of the issue is hampered by the limited nature of lack of quantification of some effects. Will the applicant be preparing a revised compensation proposal?
- As far as we are aware, the existing baseline reports and analyses provide only limited information to support the factual determinations necessary to evaluate the potential for the proposed project to cause or contribute to significant degradation. It seems to us that failure of the SEIS to evaluate the potential for significant degradation would create a very real vulnerability in the administrative record.

Jamey L. Stoddard
Office of Water and Watersheds, NEPA Compliance
USEPA Region X
1200 6th Ave, Suite 900, OWW-191
Seattle, WA 98101
t. 206.553.6110
f. 205.553.0165

-----Original Message-----

From: Newman, Sheila M POA [mailto:Sheila.M.Newman@usace.army.mil]

Sent: Tuesday, May 19, 2015 4:01 PM

To: Heather Kendall-Miller; Reimer, Gary

Cc: Socheata Lor; Betsy McCracken; Ellen Lance (ellen_lance@fws.gov); Stoddard, Jamey; LaCroix, Matthew; Allison MacEwan (allison@ridolfi.com); Rob Rosenfeld (robrosey@gmail.com); Shay Elbaum (Law Clerk 12 AK); Al goozmer (al777atthebeach@gmail.com); Donita Slawson (deniigi51@yahoo.com); Shina A Duvall (DNR) (shina.duvall@alaska.gov) (shina.duvall@alaska.gov); judy.bittner@alaska.gov; 'jeddins@achp.gov'; Doug Limpinsel - NOAA Federal (doug.limpinsel@noaa.gov); candace.nachman@noaa.gov; NVT-Admin@tyonek.net; Kyle.Moselle@alaska.gov; russell.kirkham@alaska.gov; Berkner, Jason R POA; Dan Graham; Joe Lucas;

renee.evans@alaska.gov; ruth.hamilton.heese@alaska.gov; kate.harper@alaska.gov
Subject: RE: upcoming meeting on Friday the 22nd (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Hi Heather,
Thanks for the email. I hope to address all of these questions on Friday.
Sheila

-----Original Message-----

From: Heather Kendall-Miller [mailto:kendall@narf.org]
Sent: Tuesday, May 19, 2015 11:02 AM
To: Newman, Sheila M POA; Reimer, Gary
Cc: Socheata Lor; Betsy McCracken; Ellen Lance (ellen_lance@fws.gov); Stoddard, Jamey (Stoddard.Jamey@epa.gov); LaCroix.Matthew@epa.gov; Allison MacEwan (allison@ridolfi.com); Rob Rosenfeld (robrosey@gmail.com); Shay Elbaum (Law Clerk 12 AK); Al goozmer (al777atthebeach@gmail.com); Donita Slawson (deniigi51@yahoo.com); Shina A Duvall (DNR) (shina.duvall@alaska.gov) (shina.duvall@alaska.gov); judy.bittner@alaska.gov; 'jeddins@achp.gov'; Doug Limpinsel - NOAA Federal (doug.limpinsel@noaa.gov); candace.nachman@noaa.gov; NVT-Admin@tyonek.net; Kyle.Moselle@alaska.gov; russell.kirkham@alaska.gov; Berkner, Jason R POA; Dan Graham; Joe Lucas; renee.evans@alaska.gov; ruth.hamilton.heese@alaska.gov; kate.harper@alaska.gov
Subject: [EXTERNAL] upcoming meeting on Friday the 22nd

Hi Sheila,

I look forward to the upcoming co-operating agency meeting on Friday and getting briefed with an update on the progress of the Chuitna SEIS development. I also look forward to meeting the new management team.

In preparation for the meeting, I thought it might be useful to forward some specific questions that I hope you will be able to address during the meeting. The following questions are:

* Does the Corp have an administrative record that it is compiling that can be made available to the co-operating agencies, or if not can we have an update on the project of compiling it?

* What chronology does the Corps envision for the components of this process (e.g., identifying alternatives and a LEDPA, releasing EIS, integrating ASCMCRA) and where are we in that chronology now?

* Does the Corps still intend to release the entire final EIS at once, or does the Corp intend to instead release individual chapters as they are finalized?

* Is there going to be an opportunity for cooperating-agencies to look at documents ancillary to the EIS, such as the functional assessment or jurisdictional determination, before the EIS is released?

o What's the status of those documents now? Are they final, or still in draft form?

- o Will there be an opportunity for the cooperating agencies to meet collectively to discuss them, or to provide further comments on draft or final versions?

- * How have the comments agencies have made thus far been incorporated, if at all, or how does the Corps plan to respond to them?

- * Can the Tribe and other co-operating agencies obtain the underlying shape files/GIS data files from the jurisdictional determination and functional assessment?

- * What is the Corps's timeline for the Tribe's Traditional Cultural Landscape determination, and does the Corp intend to issue the EIS prior to receiving that determination?

- o Can NARF set up a separate meeting with you and Eric to discuss this?

Thanks much and I look forward to seeing everybody on Friday.

Best, Heather Kendall

Native American Rights Fund

Counsel to Native Village of Tyonek

Classification: UNCLASSIFIED

Caveats: NONE